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BY THE HOUSE OF DELEGATES,

FEBRUARY 29, 1864.

Read and ordered to be printed.

MINORITY REPORT

OF THE

COMMITTEE ON ELECTIONS

OF THE

HOUSE OE DELEGATES.

ON THE

CONTESTED ELECTIONS IN SOMERSET CO.

JANUARY SESSION, 1864.

ANNAPOLIS:
BULL & TUTTLE.
1864.

REPORT.

To the Honorable, the House of Delegates of Maryland:

In the cases of the contested elections for the office of Clerk of the Circuit Court for Somerset County, and Register of Wills for said county, the undersigned, a minority of the Committee on Elections, have been unable to agree with the majority of the committee; and therefore beg leave to submit to the House a minority report.

The testimony taken by the committee, in these cases, having been submitted to the House, the undersigned will not recapitulate it at length, but will confine themselves mainly to the reasons which have brought them to their conclusions in these cases of contested elections.

The questions of inquiry before the committee on elections were—"Was there an election in Somerset county on the 4th day of November, 1863, for Clerk of the Circuit Court, and Register of Wills, and if there was such an election, who were chosen as said officers?"

It appears from the testimony taken by the committee, and submitted to the House, that the polls of the various election precincts of the county, were opened by the judges of election at the usual time and places for holding election, and that these polls were kept open during the day, with the exception of one precinct—Princess Anne—at which the polls were closed when only one vote had been taken, by the arrest of the judges of election by one Capt. Moore, in the United States military service, who professed to do so under orders from Major General Schenck, in the military service of the United States, on the ground that these judges of election re-

fused to conduct the election in accordance with the orders of said General Schenck.

This act of illegal and violent interference with the election, meets with the unqualified condemnation of the undersigned, as an act of gross usurpation and wrong; but they cannot understand why this closing of one precinct out of fifteen in the county, should invalidate the whole election, unless it could be also shown that the closing of said polls defeated the choice of the voters of said county, which the testimony by no means sustains.

At a majority of the other precincts, there was more or less of military interference, appearing mainly to be designed to impair the vote of Mr. Crisfield, and to promote the election of Mr. Creswell, opposing candidates for Congress, without aiming especially at any other candidate, except by one John W. Davis, Provost Marshal at Tyaskin precinct, who was willing that any voter should vote for whom he pleased, provided the voter would vote or promise to vote for him for Sheriff. But he does not seem to have received many votes; nor does it appear that many, if any, voters were excluded from the polls at that precinct. At some of the precincts, there was little or no interference.

Upon summing up the testimony in regard to the military interference with the election, and its effects upon the voters, it is evident to the minds of the undersigned, that more persons were kept from the polls, who would have voted for the returned clerk and register, than would have voted for the contesting candidates. Many democrats did not attend the polls on the ground, that the military had been or would be sent to the county, at the instance of men of the Union party, and that they, the democrats, as had been the case before, in almost every part of the State, would not be allowed to vote. This impression appearing from the proof to be general, the undersigned are clearly convinced, that more democrotic voters were kept from the polls, than voters of the Union party. In consequence of this impression, and the actual military interference at the polls, the undersigned, are satisfied beyond reasonable doubt, that Levin Woolford, the democratic candidate for Clerk, and John J. Dashiel, the democratic candidate for Register of Wills, lost more votes, than did the contesting candidates, Cadmus Dashiel for Clerk, and S. C. Long, for Register. They are convinced therefore, that the result, if there had been no military or other interference, would have been the same, except that Levin Woolford and J. J. Dashiel, would have been elected by increased majorities.

It is proper, too, that the House should be informed that there were three candidates in the field for each of the offices of Clerk and Register—two Union candidates and one Democratic candidate for each. This fact will readily suggest to the minds of the House reasons for the greater probability of the election of Woolford and J. J. Dashiel.

In regard to the contested election for Judges of the Orphans' Court of Somerset county, the undersigned do not consider that there was any investigation of such contest by the committee on Elections, and that having made no special examination into the election as to judges of the Orphans' Court, they are not authorized to report in the matter. Should the House think differently, the undersigned assert that the same reasons given in favor of the election of Levin Woolford as clerk, and J. J. Dashiel as register, will apply in favor of the election of Thomas E. Ballard, Joseph Brattan and Dan. W. Jones, as Judges of the Orphans' Court for Somerset county, ann that they were elected according to the returns of the election, over two competing tickets for the same office, by an average majority of one hundred and forty-nine.

In conclusion, the undersigned beg leave to say, that an election in its best understood, and commonly received acceptation, is under our laws, a choice of the people having the right to elect.

The laws of the State make provision for the holding of elections to ascertain the choice of the people.

If, at such elections, the choice of the people is clearly the result, then the election is valid as to the parties returned as elected; though there were irregularities and illegalities attending the holding of such elections.

Fraud, violence and other illegalities will certainly vitiate an election, if they defeat the choice of the people; and especially so if such fraud, violence and other illegalities were instigated or promoted by the candidates, or in the interest of the candidates returned as elected.

In the cases before you, it is unquestionably true that no fraud, violence or other illegalities were prompted, instigated or practiced by the successful condidates, or by or through any of their friends, agencies or means, or in any way intended to promote their election.

It is equally clear that all such frauds, violence and illegalities were prompted and instigated by those who were opposed to the successful candidates, and that they (the successful candidates) were elected in spite of such means of opposition.

It is therefore clear to the minds of the undersigned that the choice of the people was not defeated; and, therefore, that there was an election in Somerset county, on the 4th day of November, 1863, for the offices of Clerk of the Circuit Court, and Register of Wills for said county, and that Levin Woolford was elected Clerk for said county, by a majority of fifty-three votes over Cadmus Dashiel; and that John J. Dashiel was elected Register of Wills over L. C. Long, by a majority of thirty-nine votes.

The undersigned therefore propose for the consideration of the House the following:

Resolved, That Levin Woolford was duly elected Clerk of the Circuit Court; that John J. Dashiel was duly elected Register of Wills, and (if the election for Judges of the Orphans' Court be considered by the House as contested) that Thomas E. Ballard, Joseph Brattan and Daniel W. Jones were duly elected judges of the Orphan's Court for Somerset county.

All of which is respectfully submitted.

JOHN F. DENT.
EDWARD HERBERT.

February 29*th*, 1864.

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